

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

AFD CHINA INTELLECTUAL PROPERTY
LAW (USA) OFFICE, INC., an Oregon
corporation,

3:09-CV-01509-BR

ORDER

Plaintiff,

v.

AFD CHINA INTELLECTUAL PROPERTY
LAW OFFICE, a Chinese corporation,
Commissioner of Social
Security,

Defendant.

AFD CHINA INTELLECTUAL PROPERTY
LLC, a Maryland limited liability
company,

Third-Party Counterclaim
Plaintiff,

v. LEI WANG aka LYNN WANG,

Third-Party Counterclaim
Defendant.

GIACOMO A. (JACK) RUSSO
ANSEL HALIBURTON
401 Florence Street
Palo Alto, CA 94301
(650) 327-9800

Attorneys for Plaintiff and Third-Party
Counterclaim Defendant

CHRISTOPHER E. HAWK
Gordon & Reese
121 S.W. Morrison Street
Suite 1575
Portland, OR 97204
(503) 222-1075

GLENN WESTREICH
JENNIFER M. LANTZ
AIMEE FURNESS
Haynes and Boone, LLP
2033 Gateway Place, Suite 300
San Jose, CA 95110
(408) 660-4151

Attorneys for Defendant and Third-Party
Counterclaim Plaintiff

BROWN, Judge.

This matter comes before the Court on the parties' Joint Statement (#187) on Cost Allocation regarding costs incurred by Defendant AFD China Intellectual Property Law Office (AFD China) for producing in discovery more than 16,000 AFD China invoices to Plaintiff AFD China Intellectual Property Law USA, Inc. (AFD USA). AFD China states it incurred total costs of \$15,309.25 and seeks reimbursement of half of those costs (*i.e.*, \$7,654.62) from AFD USA.

Defendant AFD China asserts the identification and copying

of the documents sought by AFD USA in its Motion to Compel and the briefing on the Motion drove up AFD China's costs dramatically. The total costs of \$15,309.25 to produce the documents is based on 495 hours spent collecting the documents at an hourly rate of \$12.90 per hour and 55 cents for each of the 16,225 invoices copied. Accordingly, AFD China contends AFD USA should pay AFD China \$5,654.62, which is half of the costs AFD China actually incurred less the \$2,000 AFD USA previously paid to AFD China.

Plaintiff AFD USA, however, contends AFD China, based on Beijing minimum hourly wage rates of \$4.67, should have incurred only \$4,907.65 as reasonable costs for producing the documents requested by AFD USA. Of that amount, AFD USA agrees it should pay one-half or \$2,453.82 (of which it has already paid \$2,000).

The Court's primary concern in resolving this dispute is to allocate the costs of production fairly between the parties. It appears to the Court, as AFD USA contends, that AFD China's costs as to the number of hours spent compiling the documents to be produced is excessive. The Court, however, agrees with AFD China that AFD USA's suggested hourly rate of \$4.67 for scanning and copying the documents is unreasonable.

In the exercise of its discretion and in the absence of more reliable cost information from either party, the Court concludes the following is a fair allocation of these disputed costs

between the parties: AFD China's total claimed copying expense of \$15,309.25 shall be reduced by twenty per cent (20%) to \$12,247.40, and AFD China is entitled to reimbursement of one-half of that cost from AFD USA in the amount \$6,123.70 less the \$2,000 AFD USA already paid to AFD China.

Accordingly, the Court orders AFD USA to reimburse AFD China the further sum of \$4,123.70 for AFD China's costs of producing the documents provided to AFD USA in discovery no later than April 1, 2013.

IT IS SO ORDERED.

DATED this 18th day of March, 2013.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge